IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9438 of 2005

Between:

M/s. Indian Bank, Hyderabad Main Branch,
Rep. by chief Manager, Bank Street, Koti, Hyderabad.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Hyderabad.
2 The Additional Commissioner (ADVT) Advertisement Section, M.C.H. Tank Bund, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of WRIT OF MANDAMUS, declare the action of the respondents in treating the name board erected by the Petitioner bank on its premises as advertisement within the meaning of Section 421 of Hyderabad Municipal Corporation Act and consequently demanding the advertisement fee vide the impugned Notice dt. 15-12-2004 vide No.11/134/ADVT/MCH/2004-05, as illegal, arbitrary and violative of Principles of natural justice and consequently set aside the impugned notice issued by the 2nd respondent.

Counsel for the Petitioner:MR.P.SHIV KUMAR

Counsel for the Respondents: MR.RAMA RAO GHANTA

The Court at the admission stage made the following :

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in treating the name Board erected by the petitioner on its premises as covered by Section 420 and 421 of Hyderabad Municipal Corporation Act 1955 (for short 'the Act'), and consequently to declare that the impugned proceedings dated 15.12.2004 demanding advertisement fee as arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

The learned counsel for the petitioner contends that the name Board erected by the petitioner on its premises is not a sky sign nor an advertisement and therefore Sections 420 and 421 of the Act do not attract. Thus, according to the learned counsel, the petitioner is not liable to pay the advertisement fees as demanded under the impugned notice. Since admittedly the said objection raised by the petitioner has not been considered by the respondents before issuing the impugned demand notice, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit his explanation raising all the objections as are available under law treating the impugned notice as a show cause notice. If any such explanation is submitted by the petitioner within four weeks from today, the respondents shall consider the same and pass appropriate orders afresh in accordance with law. Till such orders are passed, the impugned notice shall not be given effect to. There shall be no order as to costs.

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26.04.2005

Note: Issue C.C. in two days.

(B/o)

Jsu

To

1 The Commissioner, Municipal Corporation of Hyderabad.

2 The Additional Commissioner (ADVT) Advertisement Section, M.C.H. Tank Bund, Hyderabad.

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